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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/848,833	05/17/2004	Kenneth R. Smith	787.187USC1	4799

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EXAMINER

AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/848,833

Applicant(s)

SMITH, KENNETH R.

Examiner

Bridget Avery

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/20/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/20/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claims 12, 16 and 20 are objected to because of the following informalities:

In claim 12, the phrase “a push handle **moving** between a use and a storage position” is a method limitation in an otherwise apparatus claim.

In claim 16, the phrase “the handle is **moved** between the use position...” is a method limitation in an otherwise apparatus claim.

In claim 20, “pivoting axis” should be changed to –pivot axis—at every occurrence.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Welch et al. (US Patent 4,875,696).

Welch et al. teaches a cart that meets the definition of applicant's claimed “room service table”. The cart (10) including a frame (housing 12 is a frame); a table top (note: prep areas 50 and 48 define a “table top” as broadly claimed); wheels (casters 14) supporting the frame (12); a push handle (34) that is movable between a use position

(Figure 15) and a storage position (Figure 14), the handle (34) is fixed and extends above and beyond the table top (50, 48) in the use position and the handle (34) is fixed and extends under the table top (50, 48) in the storage position. The handle (34) can pivot between the use position and the storage position. The handle (34) extends above the wheels (14) at the use position and at the storage position (as clearly shown in Figures 14 and 15). The handle is rigidly set at the use position and at the storage position. The handle (34) can move between the use position and the storage position while the cart (10) is supported on the wheels (14). The handle (34) includes a rigid grip portion (171) and connecting portion (), where the connecting portion is pivotally mounted to an underside of the table top (50, 48). The handle includes a pivot axis (defined by shaft 166) and the handle (34) extends in a first direction (as clearly shown in Figure 15) away from the pivot axis (defined by shaft 166) at the use position and the handle (34) extends in a second direction (as clearly shown in Figure 14) away from the pivot axis (defined by shaft 166) at the storage position. The handle (34) abuts an underside of the table top (50, 48) via the frame/housing (12) in the storage position (as clearly shown in Figure 14).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 19 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. ('696).

Welch et al. teaches the features described above. Welch et al. further teaches a handle lock (defined by pins 174 and holes 188).

Welch et al. lacks the teaching of a second lock.

However, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to add a second set of holes in the underside of the table top where the pins 174 engage in the storage position to positively lock the handle, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

4. Claims 12-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Horn (US Patent 2,043,797) in view of Welch et al. ('696).

Horn teaches a food cooking and service table including a folding table top having a center portion (15) and folding side portions (16); a frame supporting the center portion (defined by legs 8 and supports 11); wheels (9) mounted to the frame (8, 11); a handle (20) pivotally mounted (hinged to handle brackets 21) to an underside of the center portion (15).

Horn lacks the teaching of handle movable to a position above the table top.

Welch et al. teaches a handle (34) that is movable to a position above a table top.

Based on the teachings of Welch et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the handle of Horn with the Horn of Welch et al. to prevent fatigue in user tall in height.

The combination of Horn and Welch et al. lack the teaching of a second lock.

However, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to add a second set of holes in the underside of the table top where the pins 174 engage in the storage position to positively lock the handle, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

#### **Examiner Comments**

5. Applicant's use of the term "cart" in claim 16 will be treated as applicant's own admission that a room service table is a cart.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Vore shows a box roller or truck.

Kaiser, II shows a cooler caddy, and methods of constructing and utilizing same.

Townsend et al. shows a caster for application to vehicles.

Exum shows a portable serving table.

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7. Any inquiry specifically concerning this communication should be directed to  
Bridget Avery at telephone number 571-272-6691.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

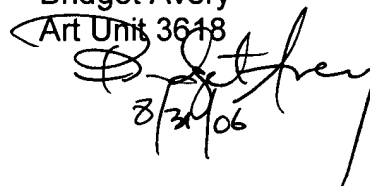
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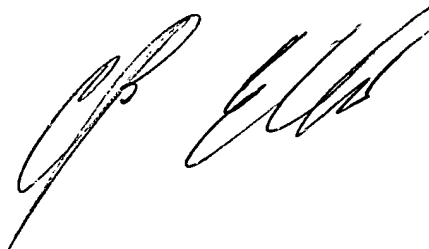
Or faxed to:

PTO Central Fax: 571-273-8300

Bridget Avery  
Art Unit 3618



8/21/06



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